

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

IN RE ETHICON, INC., PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION	Master File No. 2:12-MD-02327 MDL 2327
THIS DOCUMENT RELATES TO: ETHICON WAVE 3 CASES LISTED IN EXHIBIT A	JOSEPH R. GOODWIN U.S. DISTRICT JUDGE

**NOTICE OF ADOPTION OF DEFENDANTS' PRIOR DAUBERT REPLY
IN FURTHER SUPPORT OF MOTION TO EXCLUDE CERTAIN
GENERAL OPINIONS OF ALAN GARELY, M.D. FOR WAVE 3**

Come now, the Defendants, and hereby adopt and incorporate by reference Defendants' Reply Memorandum in Ethicon Wave 1, Case No. 2:12-md-02327, ECF No. 2286, filed in further support of their Motion to Exclude Certain Opinions of Alan Garely, M.D.. Case No. 2:12-md-02327, ECF No. 2128 (the "Wave 1 Motion").

This notice applies to the Wave 3 cases identified in Exhibit A attached hereto (the "Wave 3 Cases").

Defendants acknowledge that on September 1, 2016, the Court issued a Memorandum Opinion and Order, Case No. 2:12-md-02327, ECF No. 2718 (the "Order") GRANTING Defendants' Wave 1 Motion in part, DENYING it in part, and RESERVING judgment in part.

Where the Court GRANTED the Wave 1 Motion, Defendants respectfully request that the Court adopt the same ruling in the Wave 3 Cases for the reasons set forth in the Court's Order.

With respect to Defendants' motion to exclude Dr. Garely's opinions on degradation, the Court DENIED the Wave 1 Motion as moot because Plaintiffs conceded that Dr. Garely will not offer any opinions about mesh degradation. (See Order, p. 8). In their Wave 3 opposition, Case No. 2:12-md-02327, ECF No. 2887, Plaintiffs have adopted their Wave 1 response and have not offered any new opinions about mesh degradation from Dr. Garely. Accordingly, the Court's Wave 1 ruling should apply.

Where the Court otherwise DENIED or RESERVED judgment on the Wave 1 Motion, Defendants acknowledge the Court's ruling, and acknowledge the same circumstances apply in Wave 3, but preserve their right to challenge the ruling on appeal.

Respectfully submitted,

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EXHIBIT A

	WAVE 3 CASE NAME	CASE NO.
1.	Karen A. Lyszcarz and Thomas F. Lyszcarz v. Ethicon, Inc., et al.	2:12-cv-02689
2.	Kelly L. White and John D. White v. Ethicon, Inc., et al.	2:12-cv-03129

CERTIFICATE OF SERVICE

I hereby certify that on October 20, 2016, I electronically filed the foregoing document with the Clerk of the court using CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

/s/ *Kelly S. Crawford*

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